

claim 1" are not disclosed in the Hawkins document. The Examiner therefore relies on the Multimedia and Stolzoff documents. However, these secondary documents do not overcome the deficiencies of the Hawkins patent.

For example, none of the documents, considered individually or in combination, teach or suggest "a plurality of investment instruments comprising shares of ownership interests in the exchange server complex" as recited in claim 1. None of the documents teach or suggest "a means for apportioning the net profit based on the number of shares associated with each owner-processor" as recited in claim 1.

In accordance with exemplary embodiments, such as that illustrated in Figure 1, a plurality of owner-processors 10 are connected to network 150. An exchange server complex 51 is also connected to network 150. The exchange server complex provides a mechanism by which computer component sellers can be matched with computer component purchasers.

A plurality of investment instruments 56 comprise shares of ownership interests in the exchange server complex 51, and are stored in an accounting database 57. For example, the first owner-processor 10a is associated with a share 56a. Thus, owner-processors can be associated with at least one of the shares, thereby defining an ownership interest in the exchange server complex for a proprietor of a respective owner-processor. The exemplary Figure 1 system provides for ownership of an on-line exchange system by businesses participating in the exchange, so that businesses that use the exchange more often can be rewarded. Such a concept is reflected in the features of claims 1 and 18, and is not taught or suggested by any of the documents relied upon by the Examiner.

None of the documents relied upon by the Examiner teach or suggest ownership of an exchange server complex by a plurality of owner-processors having proprietors. The Hawkins patent discloses a method and apparatus for trading securities electronically. Referring to Figure 4 of the Hawkins patent, an originating broker 100 (working for Company A) places an order with an executing broker 101 (working for company B) by sending a buy order to host 102 (which is associated with financial institution C). The executing broker 101 retrieves the buy order message, executes the buy order, and sends a confirmation message to host 102. Host 102 matches the originating and executing broker messages and sends messages to the originating broker's clearing agents. Apart from mentioning that host 102 is associated with Financial Institution C, the Hawkins patent does not discuss ownership in the host 102. Accordingly, the Hawkins patent does not disclose or suggest "investment instruments comprising shares of ownership interest" in host 102, or "a means for apportioning the net profit based on a number of shares associated with each owner-processor."

The Hawkins patent simply does not teach or suggest that the originating broker 100 and/or the executing broker 101 possess any ownership interest in the financial institution C. Claim 1 specifically recites "a plurality of investment instruments comprising shares of ownership interests in the exchange server complex". Claim 1 additionally recites "at least one of the shares associated with the first or the second owner-processor thereby representing the ownership interest in the exchange server complex for the proprietor of the respective owner-processor."

The Examiner recognizes the deficiencies of the Hawkins patent and therefore relies on the Multimedia document and the Stolzoff document. However,

these documents provide no teaching or suggestion that any owner-processor maintains an ownership interest in an exchange server complex as presently claimed. These documents, even when considered in the combination relied upon by the Examiner, fail to teach or suggest any investment instrument comprising shares of ownership interests in an exchange server complex as claimed.

In discussing the Multimedia document, none of the comments set forth by the Examiner provide any discussion of an ownership interest in an exchange server complex. Similarly, none of the comments set forth by the Examiner in the Office Action describe a disclosure in the Stolzoff document of an ownership interest in an exchange server complex.

On page 6 of the Office Action, the Examiner sets forth a combination of the three documents with the following statement:

It would have been obvious at the time of the invention to combine the inventions of Hawkins, Multimedia and Stolzoff to explicitly teach applicant's claimed invention in combination with components of the invention that encompassed shares of ownership and monetary exchanges relating to ownership and calculating and charging fees and apportioning the net profit based on the number of shares associated with each owner-processor as disclosed by the combination of Hawkins, Multimedia, Stolzoff for the motivation of compensating owners/systems for the exchange of products and services.

This statement of obviousness is unsubstantiated by any evidence of record. The Multimedia document is directed to online network operators, and other "middleman" operators, who facilitate sales and distribution. However, none of the examples provided in the Multimedia document addresses ownership in such an online network operator. There is simply no teaching or suggestion in this document of investment instruments comprising shares of ownership interests in an exchange server complex.

The Stolzoff document is directed to trading assets on an exchange. None of the numerous examples provided in this document provide any teaching or suggestion for apportioning ownership within the exchange among users of the exchange. There is simply no disclosure by Stolzoff of investment instruments comprising shares of ownership interests in an exchange server complex.

Because none of the documents relied upon by the Examiner teach or suggest significant features of Applicant's claim 1 combination, claim 1 is patentably distinct over these documents. The Examiner's sole basis for combining these documents is the motivation provided by the presently claimed invention. As such, claim 1 is considered allowable.

Independent claim 18 recites a method with similar features to those discussed with respect to claim 1. For example, claim 18 recites, among other features, "at least one proprietor having an ownership interest in the computer component exchange" and "apportioning net profit based on the number of shares associated with each owner-processor". The "number of shares" which are associated with each owner-processor to apportion the net profit, are thus specifically described in the preamble of claim 18 as "shares representing the respective proprietor's ownership in the exchange server complex". As already discussed with respect to claim 1, none of the documents relied upon by the Examiner teach or suggest any ownership interest in an exchange server complex by proprietors who exploit services of the exchange server complex.

In addition, U.S. Patent Application Publication No. US 2001/0047322, cited in the rejection of claims 11-26, fails to overcome deficiencies of the aforementioned documents, such that claims 1 and 18 are allowable.

The remaining claims depend from independent claims 1 and 18 and recite further advantageous features which further distinguish over the documents relied upon by the Examiner. As such, these claims are also considered allowable.

The Examiner's comments in numbered paragraph 8 on page 11 of the Office Action fail to address the distinctions discussed with respect to claim 1. For example, as already discussed none of the documents relied upon by the Examiner teach or suggest a plurality of investment instruments comprising shares of ownership interests in the exchange server complex, or means for apportioning the net profit based on the number of shares associated with each owner-processor.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: January 27, 2005

By: *Per*

Mr. Patrick C. Keane, Reg. No. 35,333
Patrick C. Keane

Registration No. 32,858

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620